

EXHIBIT A

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10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA**

12 ALL NIPPON AIRWAYS COMPANY,)
 LTD.)
 Plaintiff,)
 vs.)
 16 UNITED AIR LINES, INC.,)
 Defendant.)

Case No. C07-03422 EDL
 Hon. Elizabeth D. Laporte

14 **DECLARATION OF SCOTT
 R. TORPEY IN SUPPORT OF
 MOTION TO SHORTEN TIME
 UNDER CIV. L.R. 6-3**

18 **DECLARATION OF SCOTT R. TORPEY**
 19
 STATE OF MICHIGAN)
 20) SS.
 COUNTY OF OAKLAND)

21 I, Scott R. Torpey, having been duly sworn, hereby state the following:

22 1. I am a partner at the law firm of Jaffe Raitt Heuer & Weiss, P.C., in Southfield
 23 Michigan. I am duly licensed and qualified to practice law in California. I represent defendant
 24 United Air Lines, Inc., ("United") in the above-captioned matter, which All Nippon Airways
 25 Company, Ltd., ("ANA") filed against United on June 28, 2007. I make this Declaration pursuant to
 26 Fed. R. Civ. P. 37 and Civ. L.R. 1-5(n), 6-3 and 37-1.

1 2. On December 21, 2007, United filed a Notice of Motion and Motion to Compel
 2 Discovery and for Additional Time to Depose Witnesses ("Motion"), setting the matter for hearing
 3 on Tuesday, January 29, 2008. The motion was subsequently rescheduled to Wednesday, January
 4 30, 2008.

5 3. In support of the Motion, United filed a Memorandum of Points and Authorities fully
 6 discussing the issues involved in the Motion and the relief United sought. (Docket No. 45).

7 4. On January 9, 2008, ANA filed its Memorandum in Opposition to United's Motion to
 8 Compel Discovery and for Additional Time to Depose Witnesses. (Docket No. 47).

9 5. On January 16, 2008, United filed its Reply to ANA's Opposition (Docket No. 49).

10 6. On January 22, 2008, the Court entered an order denying United's Motion without
 11 prejudice based upon a finding that the Declaration of Scott Torpey submitted in support of the
 12 Motion did not contain sufficient facts to demonstrate compliance with the meet and confer
 13 requirement of the Civil Local Rules. (Docket No. 50). In pertinent part, the Court stated the
 14 following in the order:

15 It is hereby ORDERED that UAL's motion is DENIED WITHOUT PREJUDICE.
 16 UAL may refile its motion after its counsel meets and confers with ANA's counsel
 17 about the issues in UAL's motion. Counsel shall meet and confer through good faith,
 18 detailed, face-to-face or telephonic conversations about the issues raised in the
 motion. If the parties have unresolved issues after doing so, the Court will resolve
 those issues. The Court will entertain a request to shorten time on such a motion.

19 (Docket No. 49, pp 1-2).

20 7. On January 24, 2008, while in California for a deposition in this case, I had a face-to-
 21 face meeting with Marshall Turner and Scott Cunningham, counsel for ANA, to discuss the
 22 discovery issues raised in United's Motion to Compel.

23 8. On January 25, 2008, I had a second face-to-face meeting with Mr. Turner and Mr.
 24 Cunningham during which we again discussed the issues raised in United's Motion. These meetings
 25 resolved some, but not all, of those issues. Specifically, ANA produced a copy of the *current*
 26 version of its Japanese-language Operations Manual and agreed to produce the personnel files of
 27 pilots Yusuke Nishiguchi, Eishin Yamaguchi and Teruo Usiu following the entry of a protective
 order. Other issues raised by the motion remain in dispute. To address these unresolved issues,

1 United has filed a Renewed Motion to Compel Discovery and for Additional Time to Depose
 2 Witnesses (the "Motion").

3 9. United requests a hearing on its Motion and further requests, pursuant to Civ. L.R. 6-
 4 3, that the 35-day motion notice period of Civ. L.R. 7-2(a) be shortened so that this Motion can be
 5 heard on **Tuesday, February 19, 2008, at 9:00 a.m.**

6 10. United requests that the time for the hearing be shortened so that the discovery issues
 7 addressed in the Motion can be decided well before mediation, which is scheduled to take place on
 8 or before April, 2008. (Docket No. 24). The requested materials are essential to United's
 9 preparation for mediation, and if ANA's flight crew is to be re-deposed, as requested in the Motion,
 10 those depositions should take place prior to the mediation as well. If the 35-day notice period is
 11 adhered to, which would put the hearing in early March, it will be virtually impossible for United to
 12 obtain all of the documents it has requested, review the documents, have its experts review the
 13 documents and conduct the depositions before mediation. Civ. L.R. 6-3(a)(1), (3). Therefore,
 14 United would be prejudiced if the time for hearing the Motion is not shortened. Further, no
 15 prejudice would result to ANA if the Motion is heard on an expedited basis because it is well aware
 16 of, and has already had an opportunity to brief, the issues involved in the Motion.

17 11. During the meet and confer meetings described above, I sought Mr. Turner's
 18 concurrence in this request to shorten the time for hearing the Motion, but concurrence was denied.
 19 Civ. L.R. 6-3(a)(2).

20 12. Pursuant to Civ. L.R. 6-3(a)(4)(i), United's compliance with the requirements of
 21 Civil L.R. 37-1(a) is described above. As previously noted, ANA has produced its current,
 22 Japanese-language Operations Manual and has agreed to produce the personnel files of the flight
 23 crew, subject to a protective order. Other issues raised by the Motion remain unresolved.
 24 Specifically, United seeks an order:

25 a. Compelling ANA to produce the following documents responsive to the document
 26 requests contained in the Notice and Amended Notices of Taking Video Depositions
 27 of Yusuke Nishiguchi, Eishin Yamaguchi and Tereo Usui: (i) ANA's current
 28 Operations Manual and the Manual that was in effect on October 7, 2003 (both the
 English and Japanese versions, except for the current Japanese version, which has
 been produced); (ii) All publications required to be on-board the ANA aircraft, as

1 they existed on October 7, 2003 and as they exist today; and (iii) all routing
 2 documents for the flight;

3 b. Compelling ANA to produce complete and unedited copies of the Cockpit Voice
 4 Recorder recordings from the flight;

5 c. Compelling ANA to produce Mr. Yamaguchi, Mr. Nishiguchi and Mr. Usui for
 6 continued depositions and to pay United's costs and fees for these continued
 7 depositions.

8 d. Awarding costs and fees to United for the expenses it incurred and will incur in
 9 bringing the motion

10 The parties' positions on the issues were fully discussed in United's Memorandum of Points and
 11 Authorities in Support of Motion to Compel Discovery and for Additional Time to Depose
 12 Witnesses (Docket No. 45), ANA's Opposition to United's Motion (Docket No. 47) and United's
 13 Reply to ANA's Opposition (Docket No. 48). Civ. L.R. 6-3(a)(4)(ii). In addition, United has
 14 submitted a Memorandum of Points and Authorities in support of its Renewed Motion to Compel
 15 and for Additional Time to Depose Witnesses addressing these issues.

16 13. To my knowledge, there has been only one previous time modification in this case.
 17 Civ. L.R. 6-3(a)(5). The Court granted United's Motion to Shorten time to have its Motion for a
 18 Protective Order, filed on November 21, 2007, heard in less than 35 days. (Docket Nos. 38, 39, and
 19 40). ANA did not oppose this motion to shorten time.

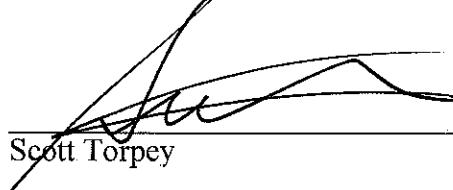
20 14. This request to shorten the time for the hearing on United's Renewed Motion to
 21 Compel will have no effect on the scheduling order. Civ. L.R. 6-3(a)(6).

22 **FURTHER AFFIANT SAYETH NOT**

23 Subscribed and sworn to before me
 24 this 30th day of January, 2008

25 Sheila A. Rencher
 26 Notary Public, Wayne County, MI

27 My Commission Expires: _____ SHEILA A. RENCHER
 28 Notary Public, Wayne County, MI
 29 Acting in Oakland County, MI My Commission Expires April 20, 2008



Scott Torpey